

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RANDOLPH ROY QUINTAL, JR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	
INVESTIGATOR WILLIAM C. VOLK	:	No. 00-122
<u>et al.</u> ,	:	
	:	
Defendants.	:	

JOYNER, J.

SEPTEMBER , 2000

MEMORANDUM

This is a civil rights case brought by Plaintiff Randolph R. Quintal, Jr. ("Plaintiff") against several defendants, including District Attorney Patrick Meehan and Assistant District Attorney Thomas F. Lawrie, Jr. of the Delaware County District Attorney's Office ("Prosecutor Defendants") and the Chief of Police, Sergeant John M. Keenan, and Detectives Thomas G. Hunsicker and Robert J. Fuss, Jr. of the Lower Merion Police Department ("Police Defendants"). In his Complaint, Plaintiff alleges violations of his federally protected civil rights and various rights under state law. Presently before the Court are two separate motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) by the Prosecutor Defendants and the Police Defendants. For the reasons that follow, we will grant both motions.

BACKGROUND

This case arises from the alleged misconduct of police and prosecutors during two different state criminal cases involving Plaintiff. In late November 1997, Plaintiff was charged with

sexually assaulting a woman in Haverford Township. At the time he was charged with this crime, Plaintiff was already in jail for a prior, unrelated arson conviction stemming from an incident in Lower Merion Township. Following an April 1999 jury trial in Delaware County, Plaintiff was acquitted of the sexual assault charges. After his acquittal, Plaintiff continued to serve, as he does today, his sentence for the arson conviction.

In his Complaint, Plaintiff alleges that the Lower Merion police officers who arrested him on arson charges attempted, with the aid of several Haverford police officers,¹ to frame him for the sexual assault that occurred in Haverford Township. Plaintiff asserts that the Lower Merion officers conspired against him because, after their investigation of him for arson, he filed an internal affairs complaint alleging police misconduct. Plaintiff further claims that the Delaware County District Attorney's Office was complicit in this scheme by initiating an unfounded sexual assault prosecution against him and by failing to dismiss that charge when exculpatory evidence was later discovered.

Based on the foregoing facts, Plaintiff filed this pro se action in January 2000. Although not specifically stated as such, Plaintiff's Complaint attempts to allege a civil rights violation pursuant to 42 U.S.C. § 1983. In addition, he alleges state law claims of false arrest, false imprisonment, and mental anguish.

¹ Plaintiff has also named the Haverford officers, William C. Volk and Clement A. Clement, as well as the Haverford Township Police Chief, as defendants to this action. None of these defendants is currently before the Court.

DISCUSSION

I. Legal Standard

In considering a motion to dismiss, a court must accept as true all facts alleged in a complaint and view them in the light most favorable to the plaintiff. See Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3d Cir. 1997). A motion to dismiss may only be granted where the allegations fail to state any claim upon which relief can be granted. See id. Moreover, a pro se complaint is held to a more liberal pleading standard than one drafted by an attorney. See, e.g., Gibbs v. Roman, 116 F.3d 83, 86 n.6 (3d Cir. 1997). Notwithstanding these standards, a court "need not credit a complaint's bald assertions or legal conclusions." See In re Burlington Coat Factory Secs. Litig., 114 F.3d 1410, 1429-30 (3d Cir. 1997) (internal quotations omitted). Further, a complaint may be dismissed pursuant to Rule 12(b)(6) where a defendant argues that he is entitled to immunity, even though immunity is generally characterized as an affirmative defense. Moser v. Bascelli, 865 F. Supp. 249, 252 (E.D. Pa. 1994), aff'd, 70 F.3d 1256 (3d Cir. 1995). In deciding the instant motions, we will apply these principles to Plaintiff's claims against each group of Defendants in turn.

II. Federal Claims Against the Prosecutor Defendants

In support of their Motion, the Prosecutor Defendants argue that they are immune from Plaintiff's suit. We agree.

Prosecutors have absolute immunity from civil suits for damages under § 1983 for initiating and presenting a criminal

case. See Buckley v. Fitzsimmons, 509 U.S. 259, 272-73, 113 S. Ct. 2606, 125 L. Ed. 2d 209 (1993); Imbler v. Pachtman, 424 U.S. 409, 431, 96 S. Ct. 984, 47 L. Ed. 2d 128 (1976). This immunity extends to all actions "taken while in court" and to out-of-court behavior "intimately associated with the judicial phases of litigation." Kulwicki v. Dawson, 969 F.2d 1454, 1463 (3d Cir. 1992) (internal quotations omitted). In addition, this immunity covers investigatory acts "to the extent that the securing of information is necessary to a prosecutor's decision to initiate a criminal prosecution." Forsyth v. Kleindienst, 599 F.2d 1203, 1215 (3d Cir. 1979). Moreover, the law affords prosecutors absolute immunity for legal judgments pertaining to the handling of evidence, including whether to release that evidence and whether that evidence is exculpatory. See Roberts v. Toal, No. Civ. A. 94-608, 1995 WL 51678, at *2-*3 (E.D. Pa. Feb. 8, 1995); see also Imbler, 424 U.S. at 431 n.34 (absolute immunity from civil suits appropriate where prosecutor withholds exculpatory evidence).

As noted above, Plaintiff argues that the Prosecutor Defendants violated his rights by bringing an unfounded criminal prosecution against him and by failing to dismiss that case despite having exculpatory evidence. Taking all of Plaintiff's claims as true, the Prosecutor Defendants' actions are still well-within the parameters of prosecutorial immunity. See Imbler, 424 U.S. at 431; Kulwicki, 969 F.2d at 1463-64; Forsyth, 599 F.2d at 1215. Accordingly, we will grant the Prosecutor Defendants' Motion with respect to Plaintiff's federal claims.

III. Federal Claims Against the Police Defendants

Next, Plaintiff attempts to plead a § 1983 conspiracy claim against the Police Defendants for their part in the alleged scheme to frame him. To establish a § 1983 conspiracy claim, a plaintiff must show that "persons acting under color of state law conspired to deprive him of a federally protected right."

Ridgewood Bd. of Educ. v. N.E. for M.E., 172 F.3d 238, 254 (3d Cir. 1999); see Parkway Garage, Inc. v. City of Philadelphia, 5 F.3d 685, 700 (3d Cir. 1993). In other words, to make out this claim, a plaintiff must allege both a civil rights violation and a conspiracy involving state action. "[T]o sufficiently allege a conspiracy, a plaintiff must show a combination of two or more persons to do a criminal act, or to do a lawful act by unlawful means or for an unlawful purpose." Panayotides v. Rabenold, 35 F. Supp. 2d 411, 419 (E.D. Pa. 1999) (internal citations omitted), aff'd, 210 F.3d 358 (3d Cir. 2000). To that end, a plaintiff must "make specific factual allegations of combination, agreement, or understanding among or between any of the defendants to plot, plan, or conspire to carry out the alleged chain of events." Id.

In his Complaint, Plaintiff alleges that the Police Defendants "enlisted" the Haverford officers to help set him up on false charges. On this score, Plaintiff claims that when he was taken to the Haverford Township police station for processing on the sexual assault charges, one of the officers there told him that: "this is because you wrote [internal affairs] on a brother officer . . . Even though that other officer is from a different

department, he is still a brother officer." Beyond this alleged statement, Plaintiff fails to provide any facts necessary to allege an agreement or understanding between the officers to deprive him of any federally protected right. Without any such allegations, Plaintiff has failed to state a § 1983 conspiracy claim. See Ridgewood, 172 F.3d at 254; Panayotides, 35 F. Supp. 2d at 419. Accordingly, we will grant the Police Defendants' Motion with respect to Plaintiff's federal claims.

IV. State Claims Against All Defendants

Because we will dismiss all of the federal claims against both the Prosecutor Defendants and the Police Defendants, we must decide whether to exercise supplemental jurisdiction over Plaintiff's state law claims. A court "may decline to exercise supplemental jurisdiction [over state law claims] if . . . the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). We decline to exercise supplemental jurisdiction over Plaintiff's potential state law claims. If he so chooses, Plaintiff may refile those state claims in the appropriate state court.

CONCLUSION

For the foregoing reasons, Defendants Motions to Dismiss will be granted. An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RANDOLPH ROY QUINTAL, JR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	
INVESTIGATOR WILLIAM C. VOLK	:	No. 00-122
<u>et al.</u> ,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this day of September, 2000, upon consideration of Defendants Meehan and Lawrie's Motion to Dismiss (Document No. 10) and Defendants Chief of Police of Lower Merion Township, Fuss, Hunsicker, and Keenan's Motion to Dismiss (Document No. 9), and Plaintiff's Response thereto (Document No. 13), it is hereby ORDERED that Defendants Motions are GRANTED.

BY THE COURT:

J. CURTIS JOYNER, J.